



# STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

*Jim Gibbons, Governor*

*Allen Biaggi, Director*

*Leo M. Drozdoff, P.E., Administrator*

## NOTICE OF PROPOSED ACTION

by the  
Nevada Division of Environmental Protection  
Bureau of Air Quality Planning

### **PUBLIC NOTICE**

August 4, 2008

Pursuant to the public hearing requirements in Title 40 of the Code of Federal Regulations Part 51 section 102, the Nevada Division of Environmental Protection (NDEP) is issuing the following notice.

On February 16, 2005, the NDEP submitted a large revision to the applicable Nevada State Implementation Plan (SIP) to the U.S. Environmental Protection Agency (EPA) for approval under section 110 of the Clean Air Act. On January 12, 2006, NDEP submitted a modification to the 2005 submittal to reflect new or amended rules adopted by the State Environmental Commission on October 4, 2005. The purpose of these submittals was to update the regulatory and statutory provisions in the Nevada SIP, in order to clarify and harmonize State and federally enforceable requirements.

The EPA has acted on the submitted statutory provisions resulting in a current set of Nevada Revised Statutes (NRS) in the SIP, except for one provision, NRS 445B.310, which must undergo public notice before it can be approved into the SIP. This statute places limitations on the enforcement of federal and state regulations concerning indirect sources of air pollutants. There is a 1977 version of this statute (NRS 445B.493) in the existing SIP. NDEP proposes to replace the 1977 version, which no longer exists in State law, with the current statute -- NRS 445B.310. The text of the two statutes is provided below.

#### **NRS 445B.310 Limitations on enforcement of federal and state regulations concerning indirect sources.**

1. If any federal regulations relating to indirect sources become effective after January 17, 1977, the authority of a state agency to review new indirect sources may be exercised only:

- (a) In the enforcement of those federal regulations; and
- (b) To the extent enforcement by the state agency is required by the Federal Act.

2. The local air pollution control agency may enforce within its jurisdiction against existing indirect sources any federal or state regulations relating to indirect sources or any regulations it adopts relating to indirect sources, to the extent that:

- (a) Local enforcement is not inconsistent with the requirements of any federal law or regulation; and
- (b) Enforcement is necessary to comply with the federal standards for ambient air quality.

(Added to NRS by 1975, 1781; A 1977, 1559; 1981, 1539; 1985, 290; 1991, 1380)—(Substituted in revision for NRS 445.493)

To replace:

#### **NRS 445.493 Limitations on enforcement of regulations as to indirect sources and authority to review new indirect sources.**

1. No regulation adopted pursuant to any provision of NRS 445.401 to 445.601, inclusive, may be enforced as to indirect sources if it is more stringent with respect to the size cutoffs established for designated areas pursuant to the United States Clean Air Act of 1963 and the rules and regulations adopted in furtherance thereof.

2. Except as provided in subsection 3, if the United States Environmental Protection Agency delays the effective date for enforcement of its indirect source regulations beyond January 17, 1977, the authority of a state agency or district board of health to

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review new indirect sources shall expire. Those projects approved prior to that date shall continue under the guidelines established in their permit.

3. If the federal indirect source regulations become effective after January 17, 1977, then:

(a) The authority of a state agency to review new indirect sources may be exercised only:

(1) In the enforcement of the federal indirect source regulations; and

(2) To the extent enforcement by the state agency is required by the federal act.

(b) The governing body of each county and each incorporated city may enforce within its jurisdiction the federal indirect source regulations or any indirect source regulations it adopts which are no more strict than the federal indirect source regulations, to the extent such local enforcement is not inconsistent with the requirements of the federal act.

(Added to NRS by 1975, 1781; A 1977, 1559)

Persons wishing to comment on this proposed SIP revision or to request a hearing should submit their comments or request in writing either in person or by mail or fax within thirty (30) days to:

Adele Malone  
NDEP Bureau of Air Quality Planning  
901 South Stewart Street, Suite 4001  
Carson City, NV 89701  
(775) 687-9356 (775) 687-6396 FAX

Written comments will be received by NDEP at the above address until September 5, 2008 and will be retained and considered. Upon receipt of a valid written request, prior to the end of the comment period, the NDEP will hold a public hearing in Carson City at the NDEP offices from 10:00 to 11:00 a.m. on September 16, 2008. If this hearing is scheduled, notice will be posted on the NDEP web site ([http://ndep.nv.gov/admin/public.htm#air\\_qp](http://ndep.nv.gov/admin/public.htm#air_qp)), at NDEP offices and county libraries. We will also send the notice to everyone on the BAQP's e-mail distribution lists.

*Please bring the foregoing notice to the attention of all persons you know that may be interested in this matter.*

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